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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052927
Party	Plaintiff Mr. Joseph E. Newgarden III
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

JOSEPH E. NEWGARDEN III,)	
Petitioner,)	
)	Cancellation No. 92052927
v.)	
)	Mark: TOMORROW
)	Registration No. 3,731,690
KENT G. ANDERSON,)	
Respondent)	
)	

MOTION FOR SUMMARY JUDGMENT

Petitioner Joseph E. Newgarden III (“Newgarden”), moves for summary judgment against Respondent Kent G. Anderson (“Anderson”) for cancellation of United States Trademark registration number 3,731,690, and states as follows:

Newgarden filed the instant petition to cancel Anderson’s TOMORROW registration, Reg. No. 3,731,690, encompassing classes 35, 41 and 43 (the “‘690 Registration”) on August 10, 2010. Doc. No. 1. In his petition, Newgarden asserts, inter alia, that Anderson has failed to use the mark in commerce as contemplated by sections 1 and 2 of the Lanham Act, 15 U.S.C. 1051 & 1052. Newgarden has standing to oppose this registration as he is the applicant of record for RACER OF TOMORROW (and design), United States trademark application 77/310,161, which the ‘690 Registration as been cited as a bar to registration under Lanham Act § 2(d) by the United States Patent and Trademark Office (“USPTO”). See March 5, 2010 Office Action, attached hereto as Exhibit H.

As discussed fully below, Anderson’s written answers to discovery show that he has not used the mark in commerce in a manner sufficient to support a trademark registration. Although the ‘690 Registration covers hundreds of wide-ranging services, including such diverse categories as “wholesale stores featuring consumer electronic products, home robots, automotive

parts, seasonal-themed products, office supplies, bedding and linens, food, beverages, toys, sporting goods, cosmetics, small appliances, boats, furniture, jewelry, gifts, clothing, computers; window display arrangement services; window dressing in display arrangements services” (Class 35) to “entertainment namely a continuing variety and news shows, all distributed over television” (Class 41) to “retirement homes” (Class 43), the record is clear that **at most**, according to Anderson himself, Anderson unsuccessfully asked third parties to license TOMORROW for use in connection with providing some of the services claimed in the registration.

Registrations such as the ‘690 Registration cannot be permitted because they would allow registrants to simply warehouse trademark registrations in order to exact licensing fees from parties who actually seek to make genuine use of marks in commerce. Such a practice is not only bad policy but expressly against the Lanham Act.

I. Statement of Undisputed Material Facts.

1. Anderson is the sole owner of the ‘690 Registration. See USPTO prosecution file for Reg. No. 3,731,690.

2. The only business location used by Anderson in connection with the ‘690 Registration is 925 N. Griffin Street; Bismark, North Dakota. See Newgarden’s First Set of Interrogatories, Document Requests and Requests to Admit, filed contemporaneously herewith as Exhibit A, at page 5, Interrogatory 3; Anderson’s “Applicant’s Answer to Opposer’s First Set of Interrogatories,” attached hereto as Exhibit B, at page 1, response 3.

3. Anderson employs no people to provide the services described in the ‘690 Registration. Exhibit A at p. 8, Interrogatory 28; Exhibit B at page 2, response 28.

4. Anderson has generated no revenue and incurred no expenses in connection with providing the services listed in the '690 Registration. Exhibit A at p. 5, interrogatory 7; Exhibit B at page 1, response 7.

5. Other than as a security guard, Anderson holds no other professional business licenses or certifications. Exhibit A at p.5, interrogatory 4. Exhibit B at p. 1, response 4.

6. Anderson has never licensed the '690 Registration or the mark TOMORROW to anyone. Exhibit A at p. 5, interrogatory 5. Exhibit B at p. 1, response 5.

7. Anderson has no customers for any goods or services covered by the '690 Registration. Exhibit A, p.10, Request for Production 8; Anderson's Response to Opposer's First Request for the Production of Documents, attached hereto as Exhibit C, p. 1, response 8.

8. Anderson's only activity with regard to the '690 Registration is seeking to have others license it from him. Exhibit A, p.11, Requests to Admit 1-3; Anderson's Answer to Petitioner's First Request for Admission, filed contemporaneously herewith as Exhibit D, p. 1, responses 1-3.

9. The '690 Registration covers, inter alia, the following goods and services:

- sports car races;
- hotel management for others;
- entertainment services in the nature of racing car events;
- entertainment in the nature of automobile races by automobile racing team;
- arena services namely providing facilities for sports concerts, conventions, and exhibitions;
- education and entertainment services in nature of professional football games;

- dealerships in the field of automobiles, water craft, land craft, space craft, air craft, recreational vehicles;
- discount stores in the field of consumer electronic products, home robots, automotive parts, seasonal-themed products, office supplies, bedding and linens, food, beverages, toys, sporting goods, cosmetics, small appliances, boats, furniture, jewelry, gifts, clothing, computers;
- entertainment services, namely, musical and dance performances provided during intervals at sports events;
- educational services namely conducting programs in the field of different subject matters, namely, mathematics, science, history, social sciences, physical sciences, enrichment, legal studies, creative writing, foreign languages, food preparation, law enforcement, commercial art, product design research and development, automotive repair, business subjects; educational testing;
- educational services, namely colleges, universities, and trade schools;
- entertainment's [sic] in nature of sports games, namely, track and field, baseball, football, ice hockey, field hockey, soccer, horseshoes, quoits;
- promoting that goods and services of others by arranging for sponsors to affiliate their goods and services with track and field, baseball, football, ice hockey, field hockey, automotive and watercraft racing, soccer events, and air shows;
- music publishing services;
- recording studio services.

USPTO prosecution file for Reg. No. 3,731,690

10. Anderson has never conducted any of the foregoing services either himself or through a licensee. Exhibit A pp. 6-8, interrogatories 9-20, 22-27; Exhibit B, pp. 1-2; responses 9-20, 22-27.

11. Anderson's only advertising and marketing for the '690 Registration is on his website <futurevisionaries.com>. Exhibit A, p. 5, interrogatory 6; Exhibit B, p. 1, response 6.

12. The specimens filed in connections with the Statement of Use for the '690 Registration are "depictions of the Mark as the Respondent tried to license" it. Exhibit A, p. 12, Request for Admission 4; Exhibit D, p. 1, response 4.

II. Argument.

Summary judgment is an appropriate method of disposing of cases in which there are no genuine issues of material fact in dispute, thus leaving the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(c). The party moving for summary judgment has the initial burden of demonstrating that there is no genuine issue of material fact remaining for trial and that it is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317 (1987).

A. The '690 Registration is void ab initio for failure to use the mark in commerce.

1. Advertising and "Preparation to Use" is not "Use" Sufficient to support a trademark registration.

Under § 45 of the Lanham Act, a service mark is any "word, name, symbol or device, or any combination thereof used by a person, or which a person has a bona fide intention to use in commerce . . . to identify and distinguish the services of one person . . . from the services of others." 15 U.S.C. § 1127. The definition of "service mark" is virtually identical to the definition of "trademark." While service marks apply to intangible services, trademarks are used

to distinguish tangible goods. See *id.*; *Chance v. Pac-Tel Teletrac Inc.*, 242 F.3d 1151, 1156 (9th Cir. 2001); *Lloyd's Food Prods., Inc. v. Eli's, Inc.*, 987 F.2d 766, 768 (Fed. Cir. 1993).

“It is clear from the wording of the Lanham Act that applications for service mark registrations are subject to the same statutory criteria as are trademarks.” 3 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 19:82 (4th ed. 2008) [hereinafter McCarthy]; see also 15 U.S.C. § 1053. One such statutory criterion that applies to both trademarks and service marks is the “use in commerce” requirement. For trademarks, the “use in commerce” requirement is met when a mark is (1) placed on the good or container, or on documents associated with the goods if the nature of the goods makes placement on the good or container impracticable, and (2) that good is then “sold or transported in commerce.” 15 U.S.C. § 1127.

For service marks, the “use in commerce” requirement is met when (1) a mark is “used or displayed in the sale or advertising of services” and (2) either (i) the services are “rendered in commerce” or (ii) the services are “rendered in more than one State or in the United States and a foreign country and the person rendering those services is engaged in commerce in connection with the services.” *Id.* The registration of a mark that does not meet the use requirement is void *ab initio*. See *Gay Toys, Inc. v. McDonald's Corp.*, 585 F.2d 1067, 1068 (C.C.P.A. 1978); 3 McCarthy § 19:112.

Without question, advertising or publicizing a service that the applicant intends to perform in the future will not support registration. In *re Cedar Point, Inc.*, 220 U.S.P.Q. 533, 536 (T.T.A.B. 1983) (quoting *Intermed Commc'ns, Inc. v. Chaney*, 197 U.S.P.Q. 501, 507-08 (T.T.A.B. 1977)); *Greyhound Corp. v. Armour Life Ins. Co.*, 214 U.S.P.Q. 473, 474 (T.T.A.B. 1982). Instead, the advertising or publicizing must relate to “an existing service which has

already been offered to the public.” Greyhound, 214 U.S.P.Q. at 474. Furthermore, “[m]ere adoption (selection) of a mark accompanied by preparations to begin its use are insufficient . . . for claiming ownership of and applying to register the mark.” Intermed, 197 U.S.P.Q. at 507; see Blue Bell, 497 F.2d at 437. “At the very least,” in order for an applicant to meet the use requirement, “there must be an open and notorious public offering of the services to those for whom the services are intended.” Intermed, 197 U.S.P.Q. at 507.¹

In Intermed, the Trademark Trial and Appeal Board (“TTAB”) rejected a service mark application for failing to meet the use in commerce requirement even where the applicant had performed many pre-application service-oriented activities involving the public. *Id.* at 508-09. The applicant in that case sought to register a mark intended to identify an international medical services operation. *Id.* at 502. The applicant’s plan was to build the international service from an already operating United States-based medical service. *Id.* at 503. The applicant intended to, and did use the United States-based operation as a fundraising affiliate of the new international operation. *Id.* at 504. Additionally, the applicant communicated with and solicited the support of the Iranian government regarding the service before the application was filed. *Id.* The applicant also issued a detailed announcement using the service mark term before the filing date designed to inform and update individuals about the service’s status. *Id.* Finally, and also before the date of application, the applicant hired a fundraising firm to raise money for the service. *Id.* at 508.

Despite these activities, the TTAB held that the applicant failed to meet the use requirement because the services described in the application were not “offered, promoted,

¹ The foregoing cases deal with the pre-1989 version of the Lanham Act which permitted so-called “token use” to support a trademark registration. However, the Federal Circuit has made clear that “[w]ith the exception of the 1988 TLRA statutory language eliminating token uses and permitting intent-to-use applications, the service mark use requirement as it appeared in 1970 is materially identical to the post-1989 version.” *Aycock Engineering, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1358 (Fed. Cir. 2009)

advertised or rendered . . . in commerce.” *Intermed*, 197 U.S.P.Q. at 504. The TTAB stated that “[t]he statute requires not only the display of the mark in the sale or advertising of services but also the rendition of those services in order to constitute use of the service mark in commerce.” *Id.* at 507-08. The TTAB further explained that adopting a mark accompanied by mere “preparations to begin its use” is insufficient for service mark registration, and that in order for the use requirement to be met, there must be “an open and notorious public offering of the services to those for whom the services are intended.” *Id.* at 507.

In 1983, the TTAB again rejected a service mark application because it failed to meet the use requirement. *Cedar Point*, 220 U.S.P.Q. at 533. In *Cedar Point*, the Cedar Point amusement park, which had been in business for decades, was preparing to open a new water park addition in mid-May of 1980. *Id.* at 535. One preparatory step taken by Cedar Point before opening day was the filing of a service mark application to register the mark “OCEANA” for its new water park service. *Id.* Cedar Point also distributed nearly 700,000 water park advertisement brochures containing the OCEANA mark during the months preceding the grand opening. *Id.*

The TTAB emphasized the fact that Cedar Point filed its service mark application with the USPTO before it opened the water park’s doors and offered those services to the public. *Id.* at 535-36. The TTAB then explained that the use of a mark in connection with the advertising of services intended to be “available at some time in the future, but not yet available at the time of filing” does not qualify the mark for registration. *Id.* at 535. Therefore, Cedar Point’s water park advertising campaign, which was ongoing at the time the application was filed, was insufficient, on its own, to support registration. *Id.* As a result, the TTAB held that the “applicant’s mark ‘OCEANA’ was not in ‘use in commerce’ . . . at the time of the filing of [the] application” and that the application was thus void ab initio. *Id.* at 537.

Federal Courts have reached the same conclusion. See, e.g., *Silberstein v. Fox Entm't Group*, 424 F. Supp. 2d 616 (S.D.N.Y. 2004) *aff'd* 242 Fed. Appx. 720 (2d. Cir. 2007), In *Silberstein*, Plaintiff Ivy Silberstein developed a squirrel-rat hybrid character which she termed "SQRAT." *Id.* at 620. Silberstein promoted the character and logo through various means including t-shirts, stickers, and a banner that hung at various outdoor concerts. *Id.*

During the period where Silberstein was promoting the SQRAT name and design, the defendant, 20th Century Fox, was developing an animated feature called *Ice Age*. *Id.* One character featured in the *Ice Age* movie was called "Scrat," which the court described as a "rodential being with bulging eyes, a long snout, saber teeth, a raccoon-like striped tail, and an anxious mien." *Id.* Believing her rights in the SQRAT name and design were violated, Silberstein sued 20th Century Fox and others for copyright and trademark infringement. *Id.*

In assessing the trademark portion of Silberstein's claim, the Southern District of New York found it to be deficient as a matter of law because the SQRAT design and word mark were not used in commerce as contemplated by the Lanham Act. *Id.* at 632. The court found that while Silberstein had distributed items emblazoned with the SQRAT word and design, "her avowed purposed for doing so was to generate interest in SQRAT, not to differentiate or identify the origin of the goods, which were merely vehicles for the logo." *Id.* at 633. The plaintiff's distribution of materials promoting SQRAT was merely "**part of [her] campaign to license Sqrat as an animated movie star.**" *Id.* (emphasis added). The court ultimately held that these activities were insufficient to support trademark use because "[m]ere advertising and promotion of a mark in this country and not enough to constitute 'use' of the mark 'in commerce' so as to bring the activity within the scope of the Lanham Act." *Id.* (citing *Morning Side Group Ltd. v. Morningside Capital Group, L.L.C.*, 182 F.3d 133, 138 (2d Cir. 1999)).

2. Anderson has not “used” the mark as contemplated by the Lanham Act.

In light of the case law holding that mere advertising and preparation for use is not sufficient to support a trademark registration, *supra*, it is clear that the ‘690 Registration is void ab initio and must be cancelled. Anderson has not used the mark TOMORROW in commerce on the services in the ‘690 Registration.

Anderson is the only owner of the ‘690 Registration. Statement of Material Facts (“SOF”) # 1. He operates out of a single location. SOF # 2. He has no employees. SOF # 3. He has no customers for services performed which are covered by the ‘690 Registration. SOF # 7. He advertises and markets the mark through a single website.² SOF # 11 and # 12.

Anderson has not generated any revenue or expenses in connection with services rendered under the ‘690 Registration. SOF # 4. Anderson’s only activity with respect to the ‘690 Registration is seeking to have others license the mark from him. SOF # 8. Anderson has never licensed the ‘690 Registration or the mark TOMORROW to others for use on any goods or services. SOF # 6. Anderson claims he has sought for others to use the ‘690 Registration in connection with various services enumerated therein, but no one has done so. SOF #9 and #10.

Based on the uncontroverted facts on the record, at the very most, Anderson has only sought to license the ‘690 Registration in an attempt to have others use the mark on the services enumerated in the registration. These actions fall below the threshold of commercial activity required under the Lanham Act. See, e.g., Silberstein, 424 F. Supp. 2d at 633.

Even in cases where an Applicant has made significant preparation to use the mark and eventually done so, the TTAB has held such activity does not meet the definition of use. See Cedar Point, 220 U.S.P.Q. at 533. In the instant case, Anderson has admitted that the only activity Anderson has engaged in with respect to the ‘690 Registration is seeking to license it.

² Anderson produced a copy of his website in discovery. See Exhibit F, hereto, discussed below.

SOF # 6 and # 8. No licenses were entered into nor other use ever occurred. *Id.* Both the TTAB and the federal courts have invalidated registrations when greater evidence of use or preparation to use has occurred.

Since Anderson has merely advertised or publicized services he intends to perform (or have others perform) in the future, these activities cannot support registration. *In re Cedar Point, Inc.*, 220 U.S.P.Q. at 536.

B. Anderson's False Statements to the USPTO make the '690 Registration Void Ab Initio.

As set forth above, Anderson's lack of use of the mark in any of the classes for which it is registered means that the '690 Registration must be cancelled as being void ab initio. Additionally, Anderson's willfully false statements to the USPTO provide additional grounds for cancellation.

A third party may petition to cancel a registered trademark on the ground that the "registration was obtained fraudulently." 15 U.S.C. § 1064(3). "Fraud in procuring a trademark registration or renewal occurs when an applicant knowingly makes false, material representations of fact in connection with his application." *In re Bose Corp.*, 580 F.3d 1240, 1243 (Fed. Cir. 2009) (citing *Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 48 (Fed. Cir. 1986)).

The Applicant's deception must be willful to constitute fraud. *Id.* at 1243. "[B]ecause direct evidence of deceptive intent is rarely available, such intent can be inferred from indirect and circumstantial evidence. But such evidence must still be clear and convincing, and inferences drawn from lesser evidence cannot satisfy the deceptive intent requirement." *Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.*, 537 F.3d 1357, 1366 (Fed. Cir. 2008). When drawing an inference of intent, "the involved conduct, viewed in light of all the evidence . . .

must indicate sufficient culpability to require a finding of intent to deceive.” *Kingsdown Med. Consultants, Ltd. v. Hollister, Inc.*, 863 F.2d 867, 876 (Fed. Cir. 1988).

Anderson’s knowing materially false statements can be shown through at least three actions he took during the prosecution of the ‘690 Registration.

First, the specimens Anderson filed with the USPTO, even if genuine, specifically state that he is the one providing the services. The service mark specimen says, “**We provide** the Following services, and goods under Our and Your TOMORROW (SM).” See Specimens filed in the Prosecution of the ‘690 Registration, filed herewith as Exhibit E (capitalization in original; emphasis added).³ The specimen then lists numerous services including: retail store services, franchising services, restaurant services, hotels, motels, inns, toy stores, electric [sic] stores, and cosmetic stores. *Id.*

Anderson’s assertion that he (the “we” of the specimen) provides the services is in direct conflict with the Anderson’s responses in discovery that the only action he has taken was seeking for the others to license the mark for the other’s use in connection with the services of the ‘690 Registration. SOF # 8. Anderson’s activity, seeking to license the mark, can in no way be construed as actually providing the services described in the specimens. Given the many trademark applications he has filed (around 100), see USPTO Records with “Kent G. Anderson” listed as owner, TESS Results attached hereto as Exhibit I, he must know that the USPTO will not register a mark without proof of use. The specimens were thus tailored to make it look as though Anderson was providing the services listed thereon in order to deceive the USPTO into believing the services were actually being rendered by him personally.

³ Due to the voluminous nature of the record, Petitioner has attached these specimens as an exhibit even though they are of record automatically in this proceeding.

There is reason to doubt the specimens are authentic. In response to discovery, Anderson only identified the website <futurevisionaries.com> in response to an interrogatory asking him to identify all methods of his sales and marketing. SOF # 11. Anderson did not identify these specimens as a method of his marketing and advertising. The specimens appear to have been specifically created to demonstrate use so that Anderson could secure this trademark registration.

Secondly, Anderson was unable to produce any documentation he ever asked anyone to license the mark TOMORROW prior to his filing of a statement of use with the USPTO.

Newgarden served a document request asking Anderson to “[p]roduce all documents which evidence use in commerce prior to April 7, 2008 for each good and service identified in the ‘690 Registration.” Exhibit A, p. 10, Request 1. In response, Anderson produced an “Exhibit 1.” See Exhibit C, p.1, response 1. A true and correct copy of those documents is filed herewith as Exhibit F. None of those documents reference or relate to the hundreds of claimed services in the ‘690 Registration. In addition to not even mentioning nearly all of these claimed services, none of these documents even use TOMORROW to identify a good or service.

Newgarden also served a document request asking Anderson to “[p]roduce all documents referring or relating to any communication you have had with any third party regarding the ‘690 Registration or the goods or services associated with the ‘690 Registration.” Exhibit A, p. 10, Request for Production 3. In response, Anderson produced an “Exhibit 2.” See Exhibit C, p.1, response 3. A true and correct copy of that Exhibit 2 is filed herewith as Exhibit G. Anderson produced only a Petition and Answer for another Cancellation Proceeding regarding the ‘690 Registration. There are no communications with any third parties where Anderson sought to have them license the mark TOMORROW, either before or after he obtained registration for it.

Thus, the record is clear that Anderson never sought to license most of, if he sought to license any of, the claimed services in the ‘690 Registration.

Finally, Anderson lacks the proper licensure to perform many of the services he claims in the ‘690 Application, demonstrating that he never could perform those services himself. Anderson is licensed only as a security guard. SOF # 5. The ‘690 registration covers, in class 35: “management of health care clinics for others,” “talent agencies,” “retail pharmacy services,” “hospital management,” “accounting services,” “auctioneering;” in class 41: “educational services, namely colleges, universities, and trade schools, all in the fields of design, research, manufacturing, automobiles, land craft, water craft, economics, world economies, and product design” and “entertainment in the nature of boxing contests;” and in class 43: “fast food restaurants,” “retirement homes,” “retirement homes providing assisted living facilities,” and “carry out restaurant” [sic].

The performance of these services would, in many, if not every, state require licensure and certification beyond those possessed by Anderson. Anderson could not have believed that, at the time he filed the Statement of Use for the ‘690 Registration, he was allowed to legally perform these services.

Given the incredible scope of the ‘690 Registration (and the other registrations claimed by Anderson for TOMORROW and FUTURE), the only reasonable inference the Board can make is that Anderson sought to register the mark TOMORROW for as many services as possible in order to obtain license fees from third parties. Many of his claimed services are fantastical and would require vast amounts of capital when undertaken by themselves, much less all together—“dealerships in the field of automobiles, water craft land craft, **space craft**, air craft recreational vehicles,” (IC 35) (emphasis added), “cluster development theory strategies” (IC

35), “entertainment in the nature of theme parks, amusement parks, amusement centers, **futuristic cities and future related towns**” (IC 41) (emphasis added), “chamber of commerce services namely promoting businesses and tourism in the geographic allocation of the United States, its territories and possessions (IC 35), horse and yacht races (IC 41), and “providing convention facilities for general purpose use” (IC 43). It must be stressed that Anderson claims these services along with hundreds of others which fill several, single-spaced pages. Even if Anderson had a genuine belief that he could obtain licensees of his mark for some of these services, Anderson could not have believed he would find licensees for all of these services. The resulting registration serves as a roadblock for anyone seeking to make genuine use of almost any mark incorporating the word “tomorrow” in classes 35, 41 or 43.

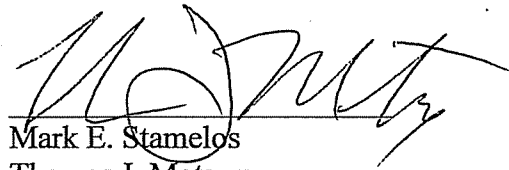
The ‘690 registration must be cancelled in its entirety to prevent exactly this sort of trademark warehousing. Both the scope and diversity of the registration exceeds plausibility and Anderson must have known that during the application’s prosecution.

III. Conclusion.

The ‘690 Registration must be cancelled in its entirety. Discovery has shown that Anderson claims only to have sought licensees for the services disclosed in the ‘690 Registration and that Anderson has not used the mark himself in connection with any services. Seeking to license a mark is not trademark use under the Lanham Act, particularly when no licenses were ever signed. Further, even if Anderson sought to license the mark at all, Anderson has not shown that he has sought to license the mark on most (if not all) of the services in the ‘690 Registration. The specimens he filed with the USPTO conflict with his statements made during discovery, and the ‘690 Registration contains services he reasonably could not have believed he could perform.

Dated: January 24, 2012

JOSEPH E. NEWGARDEN III

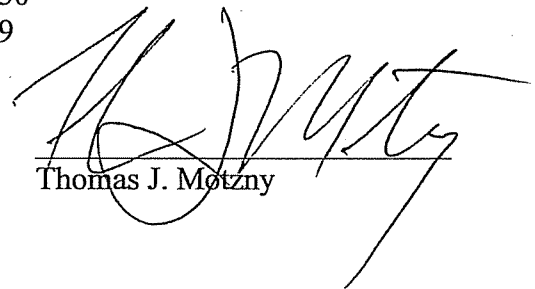


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CERTIFICATE OF SERVICE

I certify that on January 24, 2012 a true and correct copy of the foregoing Motion for Summary Judgment was served on Respondent by sending same via FedEx, to:

Dwayne L. Bentley
DL BENTLEY LAW GROUP PLLC
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Brooklyn, New York 11241
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